



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Robert G. Burnley
Director

Francis L. Daniel
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**T & L Disposal, Inc.
Solid Waste (CDD Landfill) Permit No. 322**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§10.1-1182 *et seq.*, 10.1-1402, 10.1-1405, and 10.1-1455 between the Virginia Waste Management Board and T & L Disposal, Inc., for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the Virginia Waste Management Board, a permanent collegial body of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1401 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “T & L Disposal” means T & L Disposal, Inc., certified to do business in Virginia, and its affiliates, partners, subsidiaries, and parents.
6. “Order” means this document, also known as a consent order.

7. “TRO” means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
8. “Regulations” means the Virginia Financial Assurance Regulations for Solid Waste Disposal, Transfer and Treatment Facilities, 9 VAC 20-70-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. T & L Disposal owns and operates a construction and demolition debris (CDD) landfill in Williamsburg, commonly known as the Waltrip Landfill. The facility is located at 11 Marclay Rd, Williamsburg, VA 23185 (the landfill). The landfill was permitted on April 1, 1981.
2. DEQ notified T & L Disposal by letter dated November 25, 2002 that the facility existing financial assurance had not been updated since 1992 and was not sufficient for the landfill. The DEQ letter requested an increase in the amount of the existing letter of credit, or a new letter of credit, and to establish a standby trust fund, no later than December 27, 2002. This date was not met as found during subsequent facility inspections and record reviews by TRO waste compliance staff.
3. Warning Letters dated February 26, July 20, and October 21, 2004 were issued to T & L Disposal by TRO waste compliance regarding the failure to submit updated financial assurance documentation for the landfill. T & L Disposal reportedly responded by fax on March 23, 2004 that updated financial assurance documentation would be forthcoming, and by letter dated August 5, 2004 acknowledging receipt of the July 20, 2004 Warning Letter. However according to DEQ files, updated financial assurance documentation were not received by the DEQ Financial Assurance Office.
4. 9 VAC 20-70-111.B of the Regulations requires that during the active life of a solid waste management facility, the closure cost estimate shall be adjusted annually for inflation. T & L Disposal violated 9 VAC 20-70-111.B of the Regulations by failing to update the closure cost estimate for the landfill.
5. 9 VAC 20-70-160.H of the Regulations requires solid waste management facilities to establish a standby trust fund as part of the financial assurance for each solid waste management unit. T & L Disposal violated 9 VAC 20-70-160.H of the Regulations by failing to establish a standby trust fund for the landfill.
6. DEQ issued T & L Disposal a Notice of Violation on January 13, 2005 advising of the above listed apparent failures of financial assurance requirements for the landfill.

7. T & L Disposal subsequently obtained financial assurance to satisfy requirements for the landfill until April 4, 2006, as noted by letter dated May 19, 2005 from the DEQ Financial Assurance Office to T & L Disposal.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1455, orders T & L Disposal, and T & L Disposal voluntarily agrees, to pay a civil charge of \$3,700.00 within 30 days of the effective date of this Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia," shall indicate T & L Disposal's Federal Identification Number, and shall be sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of T & L Disposal for good cause shown by T & L Disposal, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those alleged violations specifically identified herein, including those matters addressed in the Notices of Violation issued to T & L Disposal by DEQ on January 13, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For the purposes of this Order and subsequent actions with respect to this Order, T & L Disposal admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. T & L Disposal consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. T & L Disposal declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review

of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by T & L Disposal to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. T & L Disposal shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. T & L Disposal shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The T & L Disposal shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and T & L Disposal. Notwithstanding the foregoing, T & L Disposal agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to the T & L Disposal. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve T & L Disposal from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, T & L Disposal voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of Sept. 22, 2005.

Francis L. Daniel
Francis L. Daniel, Regional Director
for Robert G. Burnley, Director
Department of Environmental Quality

T & L Disposal voluntarily agrees to the issuance of this Order.

By: Dudley S. Watrop
Date: 8-10-05

Commonwealth of Virginia

City/County of James City

The foregoing document was signed and acknowledged before me this 10th day of August, 2005, by Dudley S. Watrop, who is
(month) (name)

President of T & L Disposal, on behalf of T & L Disposal.
(title)

Cheryl Peyer
Notary Public

My commission expires: 6/30/07

